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Attorneys for Defendants
Woodbine Alaska Fish Company,
and Guy Ferrari Inc.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

CITICAPITAL COMMERCIAL CORP,)
Plaintiff,)

v.)

EGEGIK SPIRIT, official number 2999957,)
her equipment, gear, furniture, apparel,)
fixtures, tackle, boats, machinery, anchors)
and all appurtenances, in rem;)

NAKNEK SPIRIT, official number 585824,)
her equipment, gear, furniture, apparel,)
fixtures, tackle, boats, machinery, anchors)
and all appurtenances, in rem;)
WOODBINE ALASKA FISH CO.,)
in personam; and GUY FERRARI, INC,)
in personam.)

Defendants,)

Case No. A-04-0147 CI
IN ADMIRALTY

MOTION FOR TELEPHONIC
APPEARANCE AND [proposed]
ORDER THEREON

[L.R. 7.3]

Date: 1/31/06
Time: 10:00 a.m.

Honorable Magistrate John D.
Roberts

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1 Now come Woodbine Alaska Fish Company for itself, and on behalf of its vessel,
 2 the *Egegik Spirit*, and Guy Ferrari, Inc., for itself and on behalf of its vessel the *Naknek*
 3 *Spirit*, and hereby move for an order permitting a telephonic appearance at the hearing on
 4 motion for summary judgment.

5 **BACKGROUND**

6
 7 Local counsel, Barbara Norris, will be unavailable to appear at the hearing as she
 8 will be out of town from January 13, 2006 through January 31, 2006. Co-counsel, Cory A.
 9 Birnberg of Birnberg & Associates, located in San Francisco, California, presently has a
 10 site inspection scheduled for that afternoon, involving coordinating no less than five
 11 persons, which was on calendar from before this Court set up the present hearing, and
 12 therefore cannot fly to Alaska to appear for the hearing in person. Defendants respectfully
 13 request that they be permitted to appear telephonically.

14
 15 Mr. Birnberg has been permitted to appear telephonically previously, and the law
 16 firm of Birnberg & Associates is primarily responsible for opposing the summary judgment
 17 motion presently before this Court.

18 **ARGUMENT**

19
 20 Local Rule 7.3(a) states that “The court may allow one or more parties, counsel,
 21 witnesses or the court to participate telephonically in any hearing or deposition for good
 22 cause and in the absence of substantial prejudice to any party.”

23
 24 Good cause exists to permit Mr. Birnberg to appear telephonically because the Court
 25 set the date for the hearing *sue sponte*, on a date that local counsel had already planned to
 26 be out of town and on a date that Mr. Birnberg had a conflict. Moreover, Defendants will
 27 be severely prejudiced without being able to present oral argument in opposition to
 28 Plaintiff’s motion for summary judgment.

1 On the other hand, no prejudice to Plaintiff will result from this accommodation.
2 Plaintiff's substantive rights and ability to argue its motion are completely unaffected by
3 this accommodation.
4

5 **CONCLUSION**

6 For the foregoing reasons, Defendants respectfully request that they be permitted to
7 appear telephonically at the hearing on Plaintiff's motion for summary judgment on January
8 31, 2006.

9
10 Dated: 9 January 2005

BIRNBERG & ASSOCIATES

11
12 By: /s/ Cory A. Birnberg
13 Cory A. Birnberg
14 Attorneys for Defendants

15 **ORDER**

16
17 Based upon the foregoing motion and good cause appearing therefore, IT IS SO
18 ORDERED that Defendants Woodbine Alaska Fish Company and Egegik Spirit may appear
19 telephonically for the hearing on Plaintiff's motion for summary judgment set for January
20 31, 2006 at 10:00 a.m. In accordance with Local Rule 7.3(b)(2), Mr. Birnberg's office shall
21 contact the Court's case management clerk for instructions on how to proceed.

22 Dated:

23 By _____
24 Honorable Magistrate John D. Roberts

25
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